



STATE OF NEW HAMPSHIRE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF MEDICAID BUSINESS AND POLICY

129 PLEASANT STREET, CONCORD, NH 03301-3857  
603-271-5254 1-800-852-3345 Ext. 5254  
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Nicholas A. Toumpas  
Commissioner

Kathleen A. Dunn  
Director

April 28, 2010

His Excellency, Governor John H. Lynch  
and the Honorable Executive Council  
State House  
Concord, New Hampshire 03301

**REQUESTED ACTION**

Authorize the Department of Health and Human Services, Office of Medicaid Business and Policy, to enter into an Amendment (hereinafter Amendment 2) of an existing contract with New Hampshire Optical Laboratory, LLC, 40 Terrill Park Drive, Concord, New Hampshire 03301-7315, vendor code #166106, originally approved by the Governor and Executive Council on June 27, 2007, item #306, and as amended in Amendment 1 on July 15, 2009, item #69, by increasing the price limitation by \$703,138.14 from \$1,460,987.60 to \$2,164,125.74, and extending the completion date from June 30, 2010, to June 30, 2011, effective June 9, 2010. The Medicaid Management Information System (MMIS) will be used to process payments and monitor claims.

Funds are available for SFY 2010 and SFY 2011 as identified below, with authority to adjust amounts, if needed and justified, between State Fiscal Years.

**05-95-95-956010-6147 HEALTH AND SOCIAL SERVICES, DEPART OF HEALTH AND HUMAN SERVICES, HHS:COMMISSIONER, OFF MEDICAID & BUSINESS POLICY, PROVIDER PAYMENTS**

| <u>State Fiscal</u> | <u>Class Object</u> | <u>Class Title</u>            | <u>Current Modified</u> | <u>Increase/</u>  | <u>Revised</u>         |
|---------------------|---------------------|-------------------------------|-------------------------|-------------------|------------------------|
| <u>Year</u>         |                     |                               | <u>Budget</u>           | <u>(Decrease)</u> | <u>Modified Budget</u> |
| SFY 2008            | 101/500729          | Medical Payments to Providers | \$458,780.90            | \$0.00            | \$458,780.90           |
| SFY 2009            | 101/500729          | Medical Payments to Providers | \$485,553.58            | \$0.00            | \$485,553.58           |
| SFY 2010            | 101/500729          | Medical Payments to Providers | \$516,653.12            | \$29,848.51       | \$546,501.63           |
| SFY 2011            | 101/500729          | Medical Payments to Providers | \$0.00                  | \$673,289.63      | \$673,289.63           |
| TOTAL               |                     |                               | \$1,460,987.60          | \$703,138.14      | \$2,164,125.74         |

**EXPLANATION**

This contract amendment (Amendment 2) with New Hampshire Optical Laboratory, LLC will enable the continued volume purchasing of eyeglass lenses, frames, and related services and the cost savings associated with this initiative by the New Hampshire Medicaid Program. The New Hampshire Department of Health and Human Services (DHHS), Office of Medicaid Business and Policy (OMBP)

administers State Plan services for the Medicaid Program, of which the provision of eyeglasses is one. The services provided by the Contractor include provision of eyeglass frames, single vision lenses, bifocal lenses, and related services for eligible low-income children and adults receiving medical assistance from the State of New Hampshire. The Contractor bills the State of New Hampshire in accordance with the terms of the contract agreement, the Medicaid provider agreement, and the administrative rules of the New Hampshire Medicaid Program.

The cost to the Medicaid Program for a pair of single vision and bifocal eyeglasses under this contract amendment will be \$24.50 and \$30.50, respectively. The Contractor has agreed to hold rates at the July 1, 2009 negotiated level. Contracting these services has provided the New Hampshire Medicaid Program with continued cost savings in the volume purchase of eyeglasses along with administrative savings through a centralized purchasing program. Additional savings have accrued to the State of New Hampshire because the eyeglass frames purchased under this agreement are guaranteed against breakage for two years from date of purchase. Throughout the Amendment 1 period to date, (July 1, 2009 to February 28, 2010), the contract has provided access to eyeglasses for the entire Medicaid population of approximately 121,094 and has provided new single vision eyeglasses to 21,086 recipients. This represents a rate of approximately 2,811 per month, for a projected number of new single vision glasses in SFY 10 of 33,732. The Medicaid population is estimated to be 132,675 members by the end of SFY 2011. Assuming that the percentage of Medicaid recipients needing services remains static, this will result in approximately 37,000 recipients receiving new glasses in SFY 2011.

The existing contract was approved by the Governor and Executive Council on June 27, 2007; it contains provisions for two one-year extensions at the mutual agreement of the parties and upon approval of the Governor and Executive Council. The DHHS is requesting to exercise the second extension period by extending the contract for an additional year. The request is effective June 9, 2010, to address expenditures related to an increase in the services provided over and above amounts projected in Amendment 1.

This contract amendment covers all Contractor materials purchased from the implementation date through June 30, 2011. For the purpose of having a price limitation, OMBP has identified a price limitation for this contract of \$2,164,125.74. The price limitation is higher than the estimated expenditure OMBP reasonably anticipates will occur at present in order to assure the State that the unit-price agreed upon for the full term of the contract is available throughout the contract period. The "current modified budget" expenditure identified for SFY 2008 and SFY 2009 in the preceding table shows the actual expenditure of unencumbered funds paid to this provider, consistent with: contracted rates, the number of Medicaid clients provided with eyeglasses and related products, and the Medicaid provider agreement. The SFY 2010 expenditures are based upon actual expenditures through February 28, 2010. The actual usage for expenditure for the remaining months in SFY 2010 will not be known until June 30, 2010. The SFY 2011 projected expenditure is based upon an anticipated Medicaid growth enrollment of 8.5% and a 3% Medicaid population increase in use of services, and OMBP's prior volume purchasing experience.

#### Competitive Bidding

The award of the state fiscal year 2007 Contract was a result of a formal, "Request for Proposal" and solicitation of bids for the above described services. A legal notice was published on January 23, 24,

and 25, 2007, in the New Hampshire Union Leader newspaper. New Hampshire Optical Laboratory, LLC and Hoya Vision Care of North America were bidders. Two bids were received and evaluated by professional staff of the Office of Medicaid Business and Policy, applying a four-phase evaluation process and multi-part technical evaluation tool. New Hampshire Optical Laboratory, LLC received 25 out of 25 points; Hoya Vision Care of North America received 24 out of 25 points. New Hampshire Optical Laboratory, LLC, had the lower proposed price. Based on the technical score and the proposed price, the New Hampshire Optical Laboratory, LLC was the winning bidder.

DHHS has a long history of working with this Vendor. Since SFY 2000 through a competitive bidding process, the DHHS has been contracting continuously with New Hampshire Optical Laboratory, LLC. This Contractor has provided satisfactory service to recipients and DHHS.

Geographic Area to be Served:

Statewide.

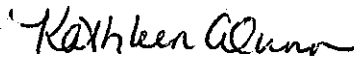
Source of Funds:

SFY 2010 - July - September - 60.19% federal, 39.81% general funds.  
SFY 2010 - October - June - 61.59% federal, 38.41% general funds.  
SFY 2011 - July - December - 61.59% federal, 38.41% general funds.  
SFY 2011 - January - June - 50% federal, 50% general funds.

The federal and state general fund rates change as a result of the American Recovery and Reinvestment Act of 2009, which is applicable to the period of October 1, 2008, through December 31, 2010 (half of SFY 11). The federal funds rate increases as the state hits higher unemployment thresholds.

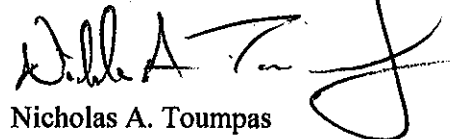
In the event that the federal funds become no longer available, general funds will not be requested to support continued volume purchasing of eyeglasses.

Respectfully Submitted,



Kathleen A. Dunn, MPH  
Director

Approved by:



Nicholas A. Toumpas  
Commissioner

**State of New Hampshire  
Department of Health and Human Services  
Amendment 2 to the  
New Hampshire Optical Laboratory, LLC Contract**

This 2nd Amendment to the New Hampshire Optical Laboratory LLC Contract (hereinafter Amendment 2) dated this 4 day of May, 2010, is by and between the State of New Hampshire acting by and through the Department of Health and Human Services, Office of Medicaid Business and Policy, (hereinafter OMBP, or the "State" or the "Department") and New Hampshire Optical Laboratory, LLC, with a place of business at 40 Terrill Park Drive, Concord, New Hampshire 03301-7315 (hereinafter the "Contractor").

WHEREAS, pursuant to an agreement (hereinafter Contract) dated the 24th of April 2007, and approved by Governor and Executive Council on June 27, 2007, Item #306, and Amendment 1, approved by the Governor and Executive Council on July 15, 2009, Item #69, the Contractor has agreed to provide certain services upon the terms and conditions specified in the Contract, as amended, in consideration of payment by the OMBP of certain sums as specified therein; and

WHEREAS, pursuant to the provisions of paragraph 17 of the Contract, General Terms and Conditions, Form P-37 (5/02), the Contract may be amended, waived, or discharged only by an instrument in writing signed by the parties thereto and only after the approval of such amendment, waiver, or discharge by the Governor and Executive Council of the State of New Hampshire; and

WHEREAS pursuant to the provisions of the Contract, Exhibit A, paragraph 15, "Contract Period," this Contract may be extended for two (2) one (1) year extensions, and this Amendment 2 extends the contract period for the final one-year period; and

WHEREAS, the OMBP and the Contractor have agreed to amend the Contract in certain respects;

NOW THEREFORE, in consideration of the foregoing and the covenants and conditions contained in the Contract and set forth herein, the parties hereto do hereby agree as follows:

1. Continuance of Agreement: Except as specifically amended and modified by the terms and conditions of this Amendment 2, the Contract, and the obligations of the parties thereunder, shall remain in full force and effect in accordance with the terms and conditions set forth therein.

**General Terms and Conditions, Form P-37 (2/05) (hereinafter "Form P-37")**

2. The general provisions contained in Form P-37 are hereby amended as follows: The Completion Date in paragraph 1.6 is extended from June 30, 2010, to June 30, 2011;
3. The general provisions contained in Form P-37 are hereby amended as follows: For the purpose of having a price limitation, the Price Limitation in paragraph 1.8 is increased by \$703,138.14 to \$2,164,125.74. The estimated expenditure for SFY 2010 is \$546,501.63 and for SFY 2011 is \$612,081.48. For the purpose of having a price limitation, the SFY 2011 anticipated expenditure has been increased 10% to accommodate additional unanticipated caseload growth for a total of \$673,289.63. The price limitation for the entire contract period is \$2,164,125.74. The contract price limitation is based upon, *inter alia*, actual utilization from SFY 2008 to SFY 2009 and actual utilization for SFY 2010 through February 28, 2010 and projected utilization based on monthly volume purchasing for the remainder of SFY 2010 and for SFY 2011.

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4. The general provisions contained in the P-37 are hereby amended as follows:  
The name "Norman W. Cordell" appearing in box 1.9 is replaced with "Kathleen A. Dunn, MPH Director, Office of Medicaid Business and Policy"
5. The general provisions contained in the P-37 are hereby amended by adding the following sentence to paragraph 3.1: Effective Date of Amendment: The effective date of Amendment 2 is June 9, 2010, or date of Governor and Council approval, through June 30, 2011.

#### Exhibit A

6. Exhibit A, Scope of Services, is hereby amended by replacing paragraph .5 with the following paragraph .5:

#### .5 DEFINITIONS

**Contract:** The Contract consists of the standard form contract (Form P-37), all Exhibits A through I, all Appendices or Attachments, including the Certificate of Vote, Mr. Dennis Bresslin's resume, Certificate of Good Standing from the NH Secretary of State's Office, Insurance Certificate, all Amendments, including Amendment 1, and this Amendment, Amendment 2, the Medicaid provider agreement, and the adopted rules of the New Hampshire Medicaid Program, the Department's Request For Proposal (RFP) and the Contractor's response to the Department's RFP.

7. Paragraph 15 of Exhibit A, Scope of Services, is hereby amended by replacing that paragraph with the following:

15. **CONTRACT PERIOD:** Following the approval by the Governor and Executive Council, this contract shall commence on June 1, 2007, and terminate on June 30, 2011.

8. The following paragraph is added to Exhibit A, Scope of Services:

16. **NOTICE OF CANCELATION OF INSURANCE.** The Contractor shall promptly give the Department notice in the event that any required insurance coverage is canceled for any reason. Notice shall be sent to Director Kathleen Dunn, MPH, Office of Medicaid Business and Policy, New Hampshire Department of Health and Human Services, 129 Pleasant Street, Concord, NH 03301.

#### Exhibit B

- 9.1 The provisions Exhibit B, "Methods and Conditions Precedent to Payment", in the introductory paragraph and in paragraph I, are hereby amended by replacing the introductory paragraph and paragraph I with the following:

Agency Name: New Hampshire Optical Laboratory, LLC  
Program Period: July 1, 2007 through June 30, 2011

- I. The contract will be for the sum of actual materials purchased from the implementation date of the contract through June 30, 2011. The contract expenditure estimated usage for SFY 2011 is \$612,081.48 based on previous purchasing volumes and projected future utilization. For the purpose of having a price

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limitation, the price limitation for SFY 2011 is \$673,290. The price limitation for the contract period is \$2,164,125.74.

| PROCEDURE CODES                    | PRICE    |
|------------------------------------|----------|
| 92390 Supply of Spectacles         | \$12.00  |
| V2020 Vision Svcs Frames Purchases | \$12.00  |
| V2100 Lens Spher Single Plano 4.00 | \$12.50  |
| V2117 Aspheric Lens Bifocal        | \$31.00  |
| V2199 Lens Single Vision Not Oth C | \$12.50  |
| V2200 Lens Spher Bifoc Plano 4.00d | \$18.50  |
| V2217 Lens Lenticular Aspheric Bif | \$40.00  |
| V2299 Lens Bifocal Specialty       | \$28.00  |
| V2715 Prism Lens/Es                | \$1.00   |
| V2740 Rose Tint Plastic            | \$4.00   |
| V2744 Tint Photochromatic Lens/Es  | \$10.00  |
| V2750 Anti-Reflective Coating      | \$5.00   |
| V2784 Lens Polycarb or Equal       | \$22.75  |
| V2799 Miscellaneous Vision Service | \$100.00 |

|                                    |                     |
|------------------------------------|---------------------|
| State Fiscal Year 2008             | \$458,780.90        |
| State Fiscal Year 2009             | \$485,553.58        |
| State Fiscal Year 2010 (projected) | \$546,501.34        |
| State Fiscal Year 2011 (projected) | <u>\$612,081.48</u> |
| Contract Total Price               | \$2, 102,917.20     |

9.2 The above figures are inclusive of all costs required to provide the services and deliverables described herein, including but not limited to labor and administrative costs attributable to the Contractor.

9.3 The category "V2799 Miscellaneous-Vision Service" will cover services not otherwise identified in this contract, or in the Department's Administrative Rules, that are determined to be appropriate for NH Medicaid Recipients on a case-by-case basis pursuant to Administrative Rule He-W-529.03, "Independent Coverage Review." The terms of He-W-529.03 shall remain in effect for the purpose of this contract unless rescinded or replaced, even if the rule itself expires, as shall all of DHHS' Vision Care Services rules, He-W-565 and other administrative rules. Prices shall be negotiated with the Contractor on a case-by-case basis.

9.4 Based upon the rates listed above, SFY 2011 is not expected to exceed \$612,081.48, with an additional 10% increase for a SFY 2011 price limitation of \$673,290. Based upon the rates listed above, and previous purchase volumes and projected utilization, this contract is not anticipated to exceed the amount of \$2,102,917.59. A contract price limitation of \$2,164,127.74 is identified to establish a price limitation in and of itself.

#### Exhibit C

10. Standard DHHS Exhibit, Exhibit C (attached) is added to the contract through this amendment.

#### Exhibit C-1

11. Exhibit C-1 Special Provisions is added to this contract, consistent with and in addition to Exhibit C.

Contractor Initials: 

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**Exhibit D**

12. Standard Exhibit D, Certification Regarding Drug-Free Workplace Requirements is hereby amended by revising the "Period Covered by this Certification" from "July 1, 2007 – July 1, 2009" to "July 1, 2007 – June 30, 2011";

**Exhibit E**

13 Standard Exhibit E, Certification Regarding Lobbying is hereby amended by revising the "Contract Period" to "July 1, 2007 through June 30, 2011."

**Exhibit I**

14 Standard Exhibit I is replaced with the attached Exhibit I (9/09).

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the day and year written below.

State of New Hampshire  
Department of Health and Human Services  
Office of Medicaid Business and Policy

Date: 5/7/10

by: Kathleen A. Dunn  
Kathleen A. Dunn, MPH  
Director

New Hampshire Optical Laboratory, LLC

Date: 5-4-10

by: Mitchel Hirsch  
Mitchel Hirsch,  
President

State of New Jersey

County of Bergen

On this 4<sup>th</sup> day of May, 2010, before me, Jeffrey C. Mason, the undersigned officer, personally appeared Mitchel Hirsch, (signatory) who acknowledged himself to be the President (title) of New Hampshire Optical LLC, (Contractor) and that he, as such President, (title) being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the organization by himself as President (title).

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Jeffrey C. Mason  
Notary Public (Justice of the Peace)

Printed Name: \_\_\_\_\_

My Commission Expires: perpetual

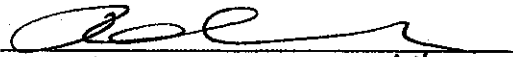
**JEFFREY C. MASON**  
**AN ATTORNEY AT LAW OF**  
**THE STATE OF NEW JERSEY**

Contractor Initials: SH

Date: 5-4-10

Approved as to form, substance, and execution:

OFFICE OF THE ATTORNEY GENERAL

by:   
~~Assistant Attorney General~~ Attorney

Printed Name: Rebecca Woodard

Date: 5/17/10

I hereby certify that the foregoing contract amendment was approved by the Governor and Executive Council of the State of New Hampshire at their meeting on \_\_\_\_\_, 2009.

OFFICE OF THE SECRETARY OF STATE

by: \_\_\_\_\_

Title: \_\_\_\_\_

Contractor Initials: 

Date: 5-4-10



NH Department of Health and Human Services

STANDARD EXHIBIT C

SPECIAL PROVISIONS

1. **Contractors Obligations:** The Contractor covenants and agrees that all funds received by the Contractor under the Contract shall be used only as payment to the Contractor for services provided to eligible individuals and, in the furtherance of the aforesaid covenants, the Contractor hereby covenants and agrees as follows:
2. **Compliance with Federal and State Laws:** If the Contractor is permitted to determine the eligibility of individuals such eligibility determination shall be made in accordance with applicable federal and state laws, regulations, orders, guidelines, policies and procedures.
3. **Time and Manner of Determination:** Eligibility determinations shall be made on forms provided by the Department for that purpose and shall be made and remade at such times as are prescribed by the Department.
4. **Documentation:** In addition to the determination forms required by the Department, the Contractor shall maintain a data file on each recipient of services hereunder, which file shall include all information necessary to support an eligibility determination and such other information as the Department requests. The Contractor shall furnish the Department with all forms and documentation regarding eligibility determinations that the Department may request or require.
5. **Fair Hearings:** The Contractor understands that all applicants for services hereunder, as well as individuals declared ineligible have a right to a fair hearing regarding that determination. The Contractor hereby covenants and agrees that all applicants for services shall be permitted to fill out an application form and that each applicant or re-applicant shall be informed of his/her right to a fair hearing in accordance with Department regulations.
6. **Gratuities or Kickbacks:** The Contractor agrees that it is a breach of this Contract to accept or make a payment, gratuity or offer of employment on behalf of the Contractor, any Sub-Contractor or the State in order to influence the performance of the Scope of Work detailed in Exhibit A of this Contract. The State may terminate this Contract and any sub-contract or sub-agreement if it is determined that payments, gratuities or offers of employment of any kind were offered or received by any officials, officers, employees or agents of the Contractor or Sub-Contractor.
7. **Retroactive Payments:** Notwithstanding anything to the contrary contained in the Contract or in any other document, contract or understanding, it is expressly understood and agreed by the parties hereto, that no payments will be made hereunder to reimburse the Contractor for costs incurred for any purpose or for any services provided to any individual prior to the Effective Date of the Contract and no payments shall be made for expenses incurred by the Contractor for any services provided prior to the date on which the individual applies for services or (except as otherwise provided by the federal regulations) prior to a determination that the individual is eligible for such services.
8. **Conditions of Purchase:** Notwithstanding anything to the contrary contained in the Contract, nothing herein contained shall be deemed to obligate or require the Department to purchase services hereunder at a rate which reimburses the Contractor in excess of the Contractors costs, at a rate which exceeds the amounts reasonable and necessary to assure the quality of such service, or at a rate which exceeds the rate charged by the Contractor to ineligible individuals or other third party funders for such service. If at any time during the term of this Contract or after receipt of the Final Expenditure Report hereunder, the Department shall determine that the Contractor has used payments hereunder to reimburse items of expense other than such costs, or has received payment in excess of such costs or in excess of such rates charged by the Contractor to ineligible individuals or other third party funders, the Department may elect to:
  - 8.1 Renegotiate the rates for payment hereunder, in which event new rates shall be established;

Contractor Initials 

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8.2 Deduct from any future payment to the Contractor the amount of any prior reimbursement in excess of costs;

8.3 Demand repayment of the excess payment by the Contractor in which event failure to make such repayment shall constitute an Event of Default hereunder. When the Contractor is permitted to determine the eligibility of individuals for services, the Contractor agrees to reimburse the Department for all funds paid by the Department to the Contractor for services provided to any individual who is found by the Department to be ineligible for such services at any time during the period of retention of records established herein.

**RECORDS: MAINTENANCE, RETENTION, AUDIT, DISCLOSURE AND CONFIDENTIALITY:**

9. **Maintenance of Records:** In addition to the eligibility records specified above, the Contractor covenants and agrees to maintain the following records during the Contract Period:

9.1 **Fiscal Records:** books, records, documents and other data evidencing and reflecting all costs and other expenses incurred by the Contractor in the performance of the Contract, and all income received or collected by the Contractor during the Contract Period, said records to be maintained in accordance with accounting procedures and practices which sufficiently and properly reflect all such costs and expenses, and which are acceptable to the Department, and to include, without limitation, all ledgers, books, records, and original evidence of costs such as purchase requisitions and orders, vouchers, requisitions for materials, inventories, valuations of in-kind contributions, labor time cards, payrolls, and other records requested or required by the Department.

9.2 **Statistical Records:** Statistical, enrollment, attendance or visit records for each recipient of services during the Contract Period, which records shall include all records of application and eligibility (including all forms required to determine eligibility for each such recipient), records regarding the provision of services and all invoices submitted to the Department to obtain payment for such services.

9.3 **Medical Records:** Where appropriate and as prescribed by the Department regulations, the Contractor shall retain medical records on each patient/recipient of services.

10. **Audit:** Contractor shall submit an annual audit to the Department within 60 days after the close of the agency fiscal year. It is recommended that the report be prepared in accordance with the provision of Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Non Profit Organizations" and the provisions of Standards for Audit of Governmental Organizations, Programs, Activities and Functions, issued by the US General Accounting Office (GAO standards) as they pertain to financial compliance audits

10.1 **Audit and Review:** During the term of this Contract and the period for retention hereunder, the Department, the United States Department of Health and Human Services, and any of their designated representatives shall have access to all reports and records maintained pursuant to the Contract for purposes of audit, examination, excerpts and transcripts.

10.2 **Audit Liabilities:** In addition to and not in any way in limitation of obligations of the Contract, it is understood and agreed by the Contractor that the Contractor shall be held liable for any state or federal audit exceptions and shall return to the Department, all payments made under the Contract to which exception has been taken or which have been disallowed because of such an exception.

11. **Confidentiality of Records:** All information, reports, and records maintained hereunder or collected in connection with the performance of the services and the Contract shall be confidential and shall not be disclosed by the Contractor, provided however, that pursuant to state laws and the regulations of the Department regarding the use and disclosure of such information, disclosure may be made to public officials requiring such information in connection with their official duties and for purposes directly connected to the administration of the services and the Contract; and provided further, that the use or disclosure by any party of any information concerning a recipient for any purpose not directly connected with the administration of the Department or the Contractor's responsibilities with respect to purchased services hereunder is prohibited except on written consent of the recipient, his attorney or guardian.

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Notwithstanding anything to the contrary contained herein the covenants and conditions contained in the Paragraph shall survive the termination of the Contract for any reason whatsoever.

12. **Reports: Fiscal and Statistical:** The Contractor agrees to submit the following reports at the following times if requested by the Department.

12.1 **Interim Financial Reports:** Written interim financial reports containing a detailed description of all costs and non-allowable expenses incurred by the Contractor to the date of the report and containing such other information as shall be deemed satisfactory by the Department to justify the rate of payment hereunder. Such Financial Reports shall be submitted on the form designated by the Department or deemed satisfactory by the Department.

12.2 **Final Report:** A final report shall be submitted within thirty (30) days after the end of the term of this Contract. The Final Report shall be in a form satisfactory to the Department and shall contain a summary statement of progress toward goals and objectives stated in the Proposal and other information required by the Department.

13. **Completion of Services: Disallowance of Costs:** Upon the purchase by the Department of the maximum number of units provided for in the Contract and upon payment of the price limitation hereunder, the Contract and all the obligations of the parties hereunder (except such obligations as, by the terms of the Contract are to be performed after the end of the term of this Contract and/or survive the termination of the Contract) shall terminate, provided however, that if, upon review of the Final Expenditure Report the Department shall disallow any expenses claimed by the Contractor as costs hereunder the Department shall retain the right, at its discretion, to deduct the amount of such expenses as are disallowed or to recover such sums from the Contractor.

14. **Credits:** All documents, notices, press releases, research reports and other materials prepared during or resulting from the performance of the services of the Contract shall include the following statement:

14.1 The preparation of this (report, document etc.) was financed under a Contract with the State of New Hampshire, Department of Health and Human Services, Office of Medicaid Business and Policy, with funds provided in part by the State of New Hampshire and/or such other funding sources as were available or required, e.g., the United States Department of Health and Human Services.

15. **Operation of Facilities: Compliance with Laws and Regulations:** In the operation of any facilities for providing services, the Contractor shall comply with all laws, orders and regulations of federal, state, county and municipal authorities and with any direction of any Public Officer or officers pursuant to laws which shall impose an order or duty upon the contractor with respect to the operation of the facility or the provision of the services at such facility. If any governmental license or permit shall be required for the operation of the said facility or the performance of the said services, the Contractor will procure said license or permit, and will at all times comply with the terms and conditions of each such license or permit. In connection with the foregoing requirements, the Contractor hereby covenants and agrees that, during the term of this Contract the facilities shall comply with all rules, orders, regulations, and requirements of the State Office of the Fire Marshal and the local fire protection agency, and shall be in conformance with local building and zoning codes, by-laws and regulations.

16. Additional special provisions are set forth in Exhibit C-1 attached hereto and incorporated by reference.

#### **SPECIAL PROVISIONS – DEFINITIONS**

As used in the Contract, the following terms shall have the following meanings:

**COSTS:** Shall mean those direct and indirect items of expense determined by the Department to be allowable and reimbursable in accordance with cost and accounting principles established in accordance with state and federal laws, regulations, rules and orders.

**DEPARTMENT:** NH Department of Health and Human Services.

**FINANCIAL MANAGEMENT GUIDELINES:** Shall mean that section of the Contractor Manual which is entitled "Financial Management Guidelines" and which contains the regulations governing the financial activities of

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contractor agencies which have contracted with the State of NH to receive funds.

**PROPOSAL:** If applicable, shall mean the document submitted by the Contractor on a form or forms required by the Department and containing a description of the Services to be provided to eligible individuals by the Contractor in accordance with the terms and conditions of the Contract and setting forth the total cost and sources of revenue for each service to be provided under the Contract.

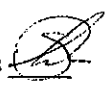
**UNIT:** For each service that the Contractor is to provide to eligible individuals hereunder, shall mean that period of time or that specified activity determined by the Department and specified in Exhibit B of the Contract.

**FEDERAL/STATE LAW:** Wherever federal or state laws, regulations, rules, orders, and policies, etc. are referred to in the Contract, the said reference shall be deemed to mean all such laws, regulations, etc. as they may be amended or revised from the time to time.

**CONTRACTOR MANUAL:** Shall mean that document prepared by the NH Department of Administrative Services containing a compilation of all regulations promulgated pursuant to the New Hampshire Administrative Procedures Act, NH RSA Ch 541-A, for the purpose of implementing State of NH and federal regulations promulgated thereunder.

**SUPPLANTING OTHER FEDERAL FUNDS:** The Contractor guarantees that funds provided under this Contract will not supplant any existing federal funds available for these services.

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Contractor Initials 

Date 5-4-10

**NH Department of Health and Human Services**

**STANDARD EXHIBIT C-I**

**ADDITIONAL SPECIAL PROVISIONS**

1 Consistent with the terms of the Department's standard Exhibit I and by way of addition thereto, by signing this Amendment 2, the Contractor acknowledges that it has reviewed and is aware of the additional HIPAA requirements stemming from the American Recovery and Reinvestment Act (ARRA) including but not limited to the provisions of HITECH ACT of 2009 and the Interim Final Rule. To the extent, if any, that Exhibit I requires the Department to notify the Contractor of changes to HIPAA requirements, the Department has done so.

2 Consistent with the terms of the Department's standard Exhibit I and by way of addition thereto, in addition to providing the Department with notice of any breach or alleged or potential breach of Personal Health Information (PHI) security and/or any other information protected by HIPAA, as required by law, or breach, or potential breach, of any confidential recipient or provider information, the Contractor will pay all costs incurred by the Department to meet state and federal notice requirements and the cost of any identify-theft protection the Department might wish to extend to potentially injured parties. The Contractor will not deal with any providers or recipients directly, but will give notice of breach, or alleged or potential breach, to the Department. The Department's method of complying with notice requirements, and/or extension of identify-theft protection shall be solely at the discretion of the department.

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Contractor Initials: 

Date: 5-4-10

**STANDARD EXHIBIT I**

The Contractor identified in Section 1.3 of the General Provisions of the Agreement agrees to comply with the Health Insurance Portability and Accountability Act, Public Law 104-191 and with the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160 and 164 and those parts of the HITECH Act applicable to business associates. As defined herein, "Business Associate" shall mean the Contractor and subcontractors and agents of the Contractor that receive, use or have access to protected health information under this Agreement and "Covered Entity" shall mean the State of New Hampshire, Department of Health and Human Services.

**BUSINESS ASSOCIATE AGREEMENT****(1) Definitions.**

- a. "Breach" shall have the same meaning as the term "Breach" in Title XXX, Subtitle D. Sec. 13400.
- b. "Business Associate" has the meaning given such term in section 160.103 of Title 45, Code of Federal Regulations.
- c. "Covered Entity" has the meaning given such term in section 160.103 of Title 45, Code of Federal Regulations.
- d. "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 CFR Section 164.501.
- e. "Data Aggregation" shall have the same meaning as the term "data aggregation" in 45 CFR Section 164.501.
- f. "Health Care Operations" shall have the same meaning as the term "health care operations" in 45 CFR Section 164.501.
- g. "HITECH Act" means the Health Information Technology for Economic and Clinical Health Act, Title XIII, Subtitle D, Part 1 & 2 of the American Recovery and Reinvestment Act of 2009.
- h. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160, 162 and 164.
- i. "Individual" shall have the same meaning as the term "individual" in 45 CFR Section 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR Section 164.501(g).
- j. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and 164, promulgated under HIPAA by the United States Department of Health and Human Services.
- k. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR Section 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- l. "Required by Law" shall have the same meaning as the term "required by law" in 45 CFR Section 164.501.

- m. **"Secretary"** shall mean the Secretary of the Department of Health and Human Services or his/her designee.
- n. **"Security Rule"** shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 164, Subpart C, and amendments thereto.
- o. **"Unsecured Protected Health Information"** means protected health information that is not secured by a technology standard that renders protected health information unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.
- p. **Other Definitions** - All terms not otherwise defined herein shall have the meaning established under 45 C.F.R. Parts 160, 162 and 164, as amended from time to time, and the HITECH Act.

**(2) Use and Disclosure of Protected Health Information.**

- a. Business Associate shall not use, disclose, maintain or transmit Protected Health Information (PHI) except as reasonably necessary to provide the services outlined under Exhibit A of the Agreement. Further, the Business Associate shall not, and shall ensure that its directors, officers, employees and agents, do not use, disclose, maintain or transmit PHI in any manner that would constitute a violation of the Privacy and Security Rule.
- b. Business Associate may use or disclose PHI:
  - I. For the proper management and administration of the Business Associate;
  - II. As required by law, pursuant to the terms set forth in paragraph d. below; or
  - III. For data aggregation purposes for the health care operations of Covered Entity.
- c. To the extent Business Associate is permitted under the Agreement to disclose PHI to a third party, Business Associate must obtain, prior to making any such disclosure, (i) reasonable assurances from the third party that such PHI will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party; and (ii) an agreement from such third party to notify Business Associate, in accordance with the HITECH Act, Subtitle D, Part 1, Sec. 13402 of any breaches of the confidentiality of the PHI, to the extent it has obtained knowledge of such breach.
- d. The Business Associate shall not, unless such disclosure is reasonably necessary to provide services under Exhibit A of the Agreement, disclose any PHI in response to a request for disclosure on the basis that it is required by law, without first notifying Covered Entity so that Covered Entity has an opportunity to object to the disclosure and to seek appropriate relief. If Covered Entity objects to such disclosure, the Business Associate shall refrain from disclosing the PHI until Covered Entity has exhausted all remedies.
- e. If the Covered Entity notifies the Business Associate that Covered Entity has agreed to be bound by additional restrictions over and above those uses or disclosures or security safeguards of PHI pursuant to the Privacy and Security Rule, the Business Associate shall be bound by such additional restrictions and shall not disclose PHI in violation of such additional restrictions and shall abide by any additional security safeguards.

**(3) Obligations and Activities of Business Associate.**

- a. Business Associate shall report to the designated Privacy Officer of Covered Entity, in writing, any use or disclosure of PHI in violation of the Agreement, including any security incident involving Covered Entity data, in accordance with the HITECH Act, Subtitle D, Part 1, Sec. 13402.
- b. The Business Associate shall comply with all sections of the Privacy and Security Rule as set forth in, the HITECH Act, Subtitle D, Part 1, Sec. 13401 and Sec.13404.
- c. Business Associate shall make available all of its internal policies and procedures, books and records relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of Covered Entity to the Secretary for purposes of determining Covered Entity's compliance with HIPAA and the Privacy and Security Rule.
- d. Business Associate shall require all of its business associates that receive, use or have access to PHI under the Agreement, to agree in writing to adhere to the same restrictions and conditions on the use and disclosure of PHI contained herein, including the duty to return or destroy the PHI as provided under Section (3)b and (3)k herein. The Covered Entity shall be considered a direct third party beneficiary of the Contractor's business associate agreements with Contractor's intended business associates, who will be receiving PHI pursuant to this Agreement, with rights of enforcement and indemnification from such business associates who shall be governed by standard provision #13 of this Agreement for the purpose of use and disclosure of protected health information.
- e. Within five (5) business days of receipt of a written request from Covered Entity, Business Associate shall make available during normal business hours at its offices all records, books, agreements, policies and procedures relating to the use and disclosure of PHI to the Covered Entity, for purposes of enabling Covered Entity to determine Business Associate's compliance with the terms of the Agreement.
- f. Within ten (10) business days of receiving a written request from Covered Entity, Business Associate shall provide access to PHI in a Designated Record Set to the Covered Entity, or as directed by Covered Entity, to an individual in order to meet the requirements under 45 CFR Section 164.524.
- g. Within ten (10) business days of receiving a written request from Covered Entity for an amendment of PHI or a record about an individual contained in a Designated Record Set, the Business Associate shall make such PHI available to Covered Entity for amendment and incorporate any such amendment to enable Covered Entity to fulfill its obligations under 45 CFR Section 164.526.
- h. Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR Section 164.528.
- i. Within ten (10) business days of receiving a written request from Covered Entity for a request for an accounting of disclosures of PHI, Business Associate shall make available to Covered Entity such information as Covered Entity may require to fulfill its obligations to provide an accounting of disclosures with respect to PHI in accordance with 45 CFR Section 164.528.



- j. In the event any individual requests access to, amendment of, or accounting of PHI directly from the Business Associate, the Business Associate shall within two (2) business days forward such request to Covered Entity. Covered Entity shall have the responsibility of responding to forwarded requests. However, if forwarding the individual's request to Covered Entity would cause Covered Entity or the Business Associate to violate HIPAA and the Privacy and Security Rule, the Business Associate shall instead respond to the individual's request as required by such law and notify Covered Entity of such response as soon as practicable.
- k. Within ten (10) business days of termination of the Agreement, for any reason, the Business Associate shall return or destroy, as specified by Covered Entity, all PHI received from, or created or received by the Business Associate in connection with the Agreement, and shall not retain any copies or back-up tapes of such PHI. If return or destruction is not feasible, or the disposition of the PHI has been otherwise agreed to in the Agreement, Business Associate shall continue to extend the protections of the Agreement, to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. If Covered Entity, in its sole discretion, requires that the Business Associate destroy any or all PHI, the Business Associate shall certify to Covered Entity that the PHI has been destroyed.

**(4) Obligations of Covered Entity**

- a. Covered Entity shall notify Business Associate of any changes or limitation(s) in its Notice of Privacy Practices provided to individuals in accordance with 45 CFR Section 164.520, to the extent that such change or limitation may affect Business Associate's use or disclosure of PHI.
- b. Covered Entity shall promptly notify Business Associate of any changes in, or revocation of permission provided to Covered Entity by individuals whose PHI may be used or disclosed by Business Associate under this Agreement, pursuant to 45 CFR Section 164.506 or 45 CFR Section 164.508.
- c. Covered entity shall promptly notify Business Associate of any restrictions on the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

**(5) Termination for Cause**

In addition to standard provision #10 of this Agreement the Covered Entity may immediately terminate the Agreement upon Covered Entity's knowledge of a breach by Business Associate of the Business Associate Agreement set forth herein as Exhibit I. The Covered Entity may either immediately terminate the Agreement or provide an opportunity for Business Associate to cure the alleged breach within a timeframe specified by Covered Entity. If Covered Entity determines that neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

**(6) Miscellaneous**

- a. Definitions and Regulatory References. All terms used, but not otherwise defined herein, shall have the same meaning as those terms in the Privacy and Security Rule, and the HITECH Act as amended from time to time. A reference in the Agreement, as amended to include this Exhibit I, to a Section in the Privacy and Security Rule means the Section as in effect or as amended.
- b. Amendment. Covered Entity and Business Associate agree to take such action as is necessary to amend the Agreement, from time to time as is necessary for Covered Entity to comply with the

changes in the requirements of HIPAA, the Privacy and Security Rule, and applicable federal and state law.

- c. Data Ownership. The Business Associate acknowledges that it has no ownership rights with respect to the PHI provided by or created on behalf of Covered Entity.
- d. Interpretation. The parties agree that any ambiguity in the Agreement shall be resolved to permit Covered Entity to comply with HIPAA, the Privacy and Security Rule and the HITECH Act.
- e. Segregation. If any term or condition of this Exhibit I or the application thereof to any person(s) or circumstance is held invalid, such invalidity shall not affect other terms or conditions which can be given effect without the invalid term or condition; to this end the terms and conditions of this Exhibit I are declared severable.
- f. Survival. Provisions in this Exhibit I regarding the use and disclosure of PHI, return or destruction of PHI, extensions of the protections of the Agreement in section 3 k, the defense and indemnification provisions of section 3 d and standard contract provision #13, shall survive the termination of the Agreement.

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IN WITNESS WHEREOF, the parties hereto have duly executed this Exhibit I.

NH Department Health & Human Services New Hampshire Optical Laboratory LLC  
The State Name of the Contractor

Kathleen Dunn  
Signature of Authorized Representative

[Signature]  
Signature of Authorized Representative

Kathleen A. Dunn  
Name of Authorized Representative

Mitchel Hirsch  
Name of Authorized Representative

Director  
Title of Authorized Representative

President  
Title of Authorized Representative

5-7-10  
Date

5-4-10  
Date



**N.H. OPTICAL LABORATORY LLC**

**40 Terrill Park Drive - Concord, NH 03301**

**800-852-3717 - www.NHOptical.com - Fax 603-225-4834**

## **Certificate of Vote**

I, Michele Hirsch, vice President of NH Optical Laboratory LLC, do hereby certify that:

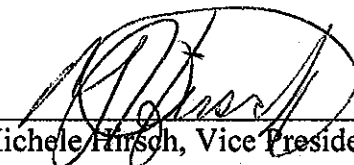
1. I am duly elected Vice President of NH Optical Laboratory LLC;
2. The following are true copies of two resolutions duly adopted at a meeting of the Board of Directors of the corporation, duly held on April 1, 2010;

RESOLVED: That this corporation enters into a contract with the State of New Hampshire, acting through its Department of Health and Human Services, Office of Medicaid Business and Policy.

RESOLVED: That the President of NH Optical Laboratory LLC is hereby authorized on behalf of this corporation to enter into said contract with the State and to execute any and all documents, agreements, and other instruments; and any amendments, revisions or modifications thereto, as he/she may deem necessary, desirable, or appropriate. Mitchel Hirsch is the duly elected President of the corporation.

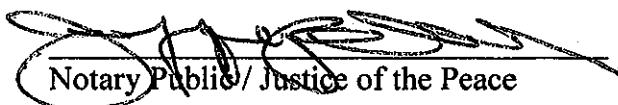
3. The foregoing resolutions have not been amended or revoked and remain in full force and effect as today's date.

IN WITNESS WHEREOF, I have hereunto set my hand as the Vice President of the corporation this 4d day of May, 2010.

  
Michele Hirsch, Vice President

STATE OF New Jersey  
COUNTY OF Bergen

The foregoing instrument was acknowledged before me on this 4d day of May, 2010.  
by Michele Hirsch.

  
Notary Public / Justice of the Peace

My Commission Expires: perpetual

**JEFFREY C. MASON**  
**AN ATTORNEY AT LAW OF**  
**THE STATE OF NEW JERSEY**

Contractor Initials: 

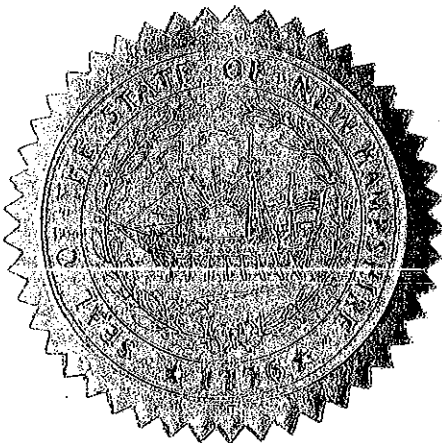
Date: 5-4-10

# State of New Hampshire

## Department of State

### CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that N.H. Optical Laboratory, LLC is a New Hampshire limited liability company formed on July 12, 2006. I further certify that it is in good standing as far as this office is concerned, having paid the fees required by law; and that a certificate of cancellation has not been filed.



In TESTIMONY WHEREOF, I hereto  
set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 14<sup>th</sup> day of April, A.D. 2010

A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner  
Secretary of State

# ACORD 101 CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
04/07/2010

PRODUCER 732.751.2900 FAX 732.751.2929

SMITH GATTA GELOK, INC.  
Insurance and Surety Solutions  
PO Box 1570  
WALL TOWNSHIP, NJ 07719

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

## INSURERS AFFORDING COVERAGE

NAIC #

INSURER A: CNA Insurance Company

343

INSURER B:

INSURER C:

INSURER D:

INSURER E:

INSURED M. H. Optical Supplies, Inc &/or  
NH Optical Laboratory

128 Leaning Street  
South Hackensack, NJ 07606

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR ADD/TYPE | TYPE OF INSURANCE  | POLICY NUMBER  | POLICY EFFECTIVE DATE (MM/DD/YYYY) | POLICY EXPIRATION DATE (MM/DD/YYYY) | LIMITS   |
|---------------|--|--|------------------------------------|-------------------------------------|--|
| A             | GENERAL LIABILITY  | P4020148575  | 12/31/2009                         | 12/31/2010                          | EACH OCCURRENCE \$ 1,000,000                         |
|               | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY   |  |                                    |                                     | DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 |
|               | <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR                           |  |                                    |                                     | MED EXP (Any one person) \$ 5,000                    |
|               | <input checked="" type="checkbox"/> BLANKET ADDITIONS  |  |                                    |                                     | PERSONAL & ADV INJURY \$ 1,000,000                   |
|               | <input checked="" type="checkbox"/> G144041  |  |                                    |                                     | GENERAL AGGREGATE \$ 2,000,000                       |
|               | GEN'L AGGREGATE LIMIT APPLIES PER:   | INSURED WHERE REQUIRED BY<br>BETWEEN INSURED AND<br>CERTIFICATE HOLDER | WRITTEN                            | CONTRACT                            | PRODUCTS - COMP/OP AGG \$ 1,000,000                  |
|               | <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC |  |                                    |                                     |  |
| A             | AUTOMOBILE LIABILITY   |  |                                    |                                     | COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000     |
|               | <input checked="" type="checkbox"/> ANY AUTO   |  |                                    |                                     | BODILY INJURY (Per person) \$                        |
|               | <input type="checkbox"/> ALL OWNED AUTOS   |  |                                    |                                     | BODILY INJURY (Per accident) \$                      |
|               | <input type="checkbox"/> SCHEDULED AUTOS   |  |                                    |                                     | PROPERTY DAMAGE (Per accident) \$                    |
|               | <input type="checkbox"/> HIRED AUTOS   |  |                                    |                                     |  |
|               | <input type="checkbox"/> NON-OWNED AUTOS   |  |                                    |                                     |  |
|               | GARAGE LIABILITY   | P4020148589  | 12/31/2009                         | 12/31/2010                          | AUTO ONLY - EA ACCIDENT \$                           |
|               | <input type="checkbox"/> ANY AUTO  |  |                                    |                                     | OTHER THAN EA ACC \$                                 |
|               |  |  |                                    |                                     | AUTO ONLY: AGG \$                                    |
| A             | EXCESS/UMBRELLA LIABILITY  | P4020148608  | 12/31/2009                         | 12/31/2010                          | EACH OCCURRENCE \$ 1,000,000                         |
|               | <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE                                      |  |                                    |                                     | AGGREGATE \$ 10,000,000                              |
|               | <input type="checkbox"/> DEDUCTIBLE  |  |                                    |                                     | \$   |
|               | <input checked="" type="checkbox"/> RETENTION \$ 10,000  |  |                                    |                                     | \$   |
|               |  |  |                                    |                                     | \$   |
| A             | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY  | WC420148592  | 12/31/2009                         | 12/31/2010                          | WC STATUTORY LIMITS OTH-ER                           |
|               | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?  |  |                                    |                                     | E.L. BACH-ACCIDENT \$ 1,000,000                      |
|               | If yes, describe under SPECIAL PROVISIONS below  |  |                                    |                                     | E.L. DISEASE - EA EMPLOYEE \$ 1,000,000              |
|               | OTHER  |  |                                    |                                     | E.L. DISEASE - POLICY LIMIT \$ 1,000,000             |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

\*\*\*\*\*Revised replaces certificate issued 3-26-10\*\*\*\*\*

\*10 Day Notice of Cancellation for Non-Payment of Premium

## CERTIFICATE HOLDER

New Hampshire Dept of Health and Human Services  
Office of Medicaid Business & Policy  
Attn: Kathleen Dunn, M.P.H.  
129 Pleasant Street  
Concord, NH 03301-2013

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL \*30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Tammy Little/TAMMY

*[Signature]*

ACORD 25 (2001/08)

©ACORD CORPORATION 1988

Amendment 2 NH Optical Laboratory LLC



STATE OF NEW HAMPSHIRE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF MEDICAID BUSINESS AND POLICY

129 PLEASANT STREET, CONCORD, NH 03301-3857  
603-271-8166 1-800-852-3345 Ext. 8166  
Fax: 603-271-8481 TDD Access: 1-800-735-2964

Nicholas A. Toumpas  
Commissioner

Kathleen A. Dunn  
Director

Approved by G+C  
Date 7-15-09  
Page \_\_\_\_\_  
Item No. 69

June 29, 2009

His Excellency, Governor John H. Lynch  
and the Honorable Executive Council  
State House  
Concord, New Hampshire 03301

**REQUESTED ACTION**

Authorize the Department of Health and Human Services, Office of Medicaid Business and Policy to enter into an Amendment (hereinafter Amendment 1) to amend an existing contract with New Hampshire Optical Laboratory, LLC, 40 Terrill Park Drive, Concord, New Hampshire 03301-7315, vendor code 130618 approved by the Governor and Executive Council on June 27, 2007, item number 306, by increasing the estimated payments by \$608,387.60 from \$852,600.000 to \$1,460,987.60 setting the SFY 2010 projected expenditures at \$563,075.71 and extending the completion date from June 30, 2009, to June 30, 2010, effective retroactive to June 1, 2009. The Medicaid Management Information System (MMIS) will be used to process and monitor claims and payments through the Medicaid fiscal agent. Funds are available in SFY 2010 as identified below. This contract for provider payments is retroactive to June 1, 2009.

| State<br>Fiscal<br>Year | Appropriation         | Description                   | Current<br>Modified<br>Budget | Increase<br>(Decrease)<br>Amount | Revised<br>Modified<br>Amount |
|-------------------------|-----------------------|-------------------------------|-------------------------------|----------------------------------|-------------------------------|
| 2008                    | 010-095-6147-090-0282 | Provider Payments             | \$458,780.90                  | \$0.00                           | \$458,780.90                  |
| 2009                    | 010-095-6147-101-0729 | Medical Payments to Providers | 393,819.10                    | 45,311.89                        | 439,130.99                    |
| 2010                    | 010-095-6147-101-0729 | Medical Payments to Providers | 0.00                          | 563,075.71                       | 563,075.71                    |
| Totals                  |                       |                               | \$852,600.00                  | \$608,387.60                     | \$1,460,987.60                |

**EXPLANATION**

This contract amendment with New Hampshire Optical Laboratory, LLC will enable the continued volume purchasing of eyeglass lenses, frames, and related services and the cost savings associated with this initiative by the New Hampshire Medicaid Program. The New Hampshire Department of Health and Human Services (DHHS), Office of Medicaid Business and Policy (OMBP) administers the Medicaid Program. The services provided by the Contractor include provision of eyeglass frames, single vision lenses, bifocal lenses, and related services for eligible low-income children and adults receiving medical assistance from the State of New Hampshire. The Contractor bills the State of New Hampshire in accordance with the terms of the contract agreement, the Medicaid provider agreement, and the administrative rules of the New Hampshire Medicaid Program. The cost to the Medicaid Program for a pair of single vision and bifocal eyeglasses under this contract amendment will be \$24.50 and \$30.50 respectively. This represents an increase of fifty-five cents (\$.55) or two percent in the agreed-upon rates in place between July 1, 2007, and June 1, 2009. Contracting these services has

provided the New Hampshire Medicaid Program with continued cost savings in the volume purchase of eyeglasses along with administrative savings through a centralized purchasing program. Additional savings have accrued to the State of New Hampshire since the eyeglass frames purchased under this agreement are guaranteed against breakage for two years from date of purchase. During the current contract the OMBP has realized a savings of approximately \$2,400,661.00 based on contract expenditures when comparing the current contract rate of \$23.95 for approximately 22,575 pair of single vision eyeglasses to a base market price of \$114.50 per pair for single vision eyeglasses. The savings calculations are based upon SFY 08 and SFY 09 actual expenditures, when this contract provided glasses to 26,512 Medicaid recipients, and provided access to eyeglasses for the entire Medicaid population of approximately 111,963. The Medicaid population is estimated to be 119,000 members by the end of SFY 2010. Even assuming that the percentage of Medicaid recipients receiving services remains static, this will result in approximately 13,500 recipients receiving glasses in SFY 2010. While not directly related to the provision of jobs, eyeglasses assist Medicaid recipients in being work-ready and / or enables them to better engage in job training.

The existing Contract was approved by the Governor and Executive Council on June 27, 2007; it contains provisions for two one-year extensions at the mutual agreement of the parties and upon approval of the Governor and Executive Council. The DHHS is requesting to exercise the first provision by extending the contract for an additional year. The request is retroactive to June 1, 2009, to address expenditures related to an increase in the services provided over and above amounts projected at the inception of the contract.

The revised modified budget amounts identified in the preceding table are an estimate based upon an OMBP's anticipated Medicaid growth enrollment of 8.5% for SFY 2010, a 3% Medicaid population increase in use of services, a minimal rate increase, and OMBP's prior volume purchasing experience. This contract covers all contractor materials purchased from the implementation date through June 30, 2010. For the purpose of having a price limitation, OMBP has identified a price limitation for this contract of \$1,460,987.60. The price limitation is higher than the expenditure OMBP reasonably anticipates will occur at present in order to assure the State that the unit-price agreed upon for the full term of the contract is available throughout the contract period. The "current modified budget" expenditure identified for SFY 2008 in the preceding table shows the actual expenditure of unencumbered funds paid to this provider, consistent with: contracted rates, the number of Medicaid clients provided with eyeglasses and related products, and the Medicaid provider agreement. The increase in SFY 2009 expenditures is based upon actual expenditures through May 31, 2009, and a projected expenditure for June 2009 based upon usage to date. The SFY 2010 projected expenditure is based upon an anticipated Medicaid growth enrollment of 8.5% and a 3% Medicaid population increase in use of services, as well as a minimal price increase.

### Competitive Bidding

The award of the state fiscal year 2007 Contract was a result of a formal, "Request for Proposal" and solicitation of bids for the above described services. A legal notice was published on January 23, 24, and 25, 2007, in the New Hampshire Union Leader newspaper. Two bids were received and evaluated by staff of the OMBP. Based on the technical score and the proposed price, the New Hampshire Optical Laboratory, LLC was the winning bidder.

DHHS has a long history of working with this vendor. Since SFY 2000 through a competitive bidding framework, the DHHS has been contracting continuously with New Hampshire Optical Laboratory, LLC. This Contractor has provided positive satisfactory service to recipients and the DHHS. As long ago as the DHHS' SFY 2000 contract with this Contractor, the cost for a pair of single vision eyeglasses was \$23.00 per pair while bifocal eyeglasses cost \$29.00 per pair.



This amendment is retroactive due to delays in negotiating the agreement amendment and obtaining approval of the necessary documents.

Geographic Area to be Served:

Statewide.

Source of Funds:

SFY 2008 - 50% federal, 50% general funds

SFY 2009 - July - September 2008 50% federal, 50% general funds

SFY 2009 - October 2008 - March 2009 56.2% federal, 43.8% general funds

SFY 2009 - April - June 2009 58.78% federal, 41.22% general funds

SFY 2010 - 60.19% federal, 39.81% general funds

The federal and state matching fund rates change as a result of the American Recovery and Reinvestment Act of 2009, which is applicable to the period October 1, 2008, through June 30, 2010. The federal funds rate has increased as the state hit higher unemployment thresholds.

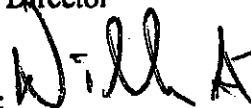
This is a one-year amendment. In the event that the federal funds become no longer available, general funds will not be requested to support this program.

Respectfully submitted,



Kathleen A. Dunn, MPH  
Director

Approved by:



Nicholas A. Toumpas  
Commissioner





STATE OF NEW HAMPSHIRE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF MEDICAID BUSINESS AND POLICY

129 PLEASANT STREET, CONCORD, NH 03301-3857  
603-271-5254 1-800-852-3345 Ext. 5254  
Fax: 603-271-8431 TDD Access: 1-800-735-2964

John A. Stephen  
Commissioner

Norman W. Cordell  
Director

May 22, 2007

His Excellency, Governor John H. Lynch  
and the Honorable Executive Council  
State House  
Concord, New Hampshire 03301

Approved by GAC  
Date 6/27/07  
Page \_\_\_\_\_  
Item # 306  
Contract # \_\_\_\_\_

**Requested Action**

Authorize the Department of Health and Human Services, Office of Medicaid Business and Policy, to enter into an agreement with New Hampshire Optical Laboratory, LLC, (Vendor No. 130618), doing business at 40 Terrill Park Drive, Concord, New Hampshire in an amount not to exceed \$852,600 for the period July 1, 2007, or date of Governor and Council approval, whichever is later, through June 30, 2009, for the volume purchase of vision materials. The Medicaid Management Information System (MMIS) will be used to process and monitor claims and payments through the Medicaid fiscal agent, Electronic Data Systems (EDS) Federal Corporation. The New Hampshire Integrated Financial System will not be used to encumber these funds. Funds are anticipated to be available in the following account according to State Fiscal Year with authority to adjust amounts through the Comptroller, if needed and justified, between State Fiscal Years.

| Account<br>Year | Account Number        | Title             | Amount     |
|-----------------|-----------------------|-------------------|------------|
| SFY 2008        | 010-095-6147-090-0282 | Provider Payments | \$ 415,902 |
| SFY 2009        | 010-095-6147-090-0282 | Provider Payments | \$ 436,698 |
| Total           |                       |                   | \$ 852,600 |

**Explanation**

This agreement with New Hampshire Optical Laboratory, LLC will enable the continued volume purchasing of eyeglass materials and the expected cost savings associated with this initiative by the New Hampshire Medicaid Program. The New Hampshire Department of Health and Human Services, Office of Medicaid Business and Policy administers the Medicaid Program. The services to be provided by the Contractor include provision of eyeglass frames, lenses and related services for eligible low-income children and adults receiving medical assistance from the State.

Contracting these services will provide the New Hampshire Medicaid Program with direct cost savings in the volume purchase of eyeglasses along with administrative savings through a centralized purchasing program. Additional savings will accrue to the State since the eyeglass

Contracting these services will provide the New Hampshire Medicaid Program with direct cost savings in the volume purchase of eyeglasses along with administrative savings through a centralized purchasing program. Additional savings will accrue to the State since the eyeglass

frames purchased under this contract are guaranteed against breakage for two years from date of purchase.

This agreement with New Hampshire Optical Laboratory, LLC contains provisions for 2 one-year extensions at the mutual agreement of the parties and upon approval of the Governor and Council. The contractor will bill the State on a fee-for-service basis for prescriptions for frames, single vision lenses and bifocal lenses, which are filled for eligible individuals, in accordance with the terms of the contract agreement, the Medicaid provider agreement, and the administrative rules of the New Hampshire Medicaid Program.

The award of this agreement to the New Hampshire Optical Laboratory, LLC was a result of a formal, Request for Proposal and solicitation of bids for the above described services. Legal notices were published on January 23, 24 and 25, 2007, in the New Hampshire Union Leader. Two bids were received and evaluated by staff of the Office of Medicaid Business and Policy. New Hampshire Optical Laboratory, LLC and Hoya Vision Care of North America were bidders. Proposals were evaluated by professional staff of OMBP applying a four phase evaluation process and multi-part technical evaluation tool. New Hampshire Optical Laboratory, LLC received 25 out of 25 points; Hoya Vision Care of North America received 24 out of 25 points. New Hampshire Optical Laboratory, LLC had the lower proposed price.

Funding levels were achieved by determining actual cost and utilization for SFY 2006 and projecting future utilization levels for SFY 2008 and SFY 2009. The increase in SFY 2009 reflects a 5 percent increase in utilization.

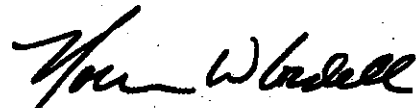
The cost to the Medicaid Program for a pair of single vision eyeglasses under this contract is approximately \$24.00 per pair.

The geographic area served by this contract is statewide.

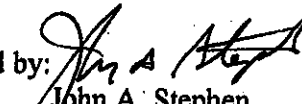
Source of funds: Federal financial participation is provided at fifty percent (50%) through direct allocation to the Medicaid Program. The state share, fifty percent (50%) will be provided with General Funds.

In the event that the Federal Funds become no longer available, General Funds will not be requested to support this program.

Respectfully submitted,

  
Norman W. Cordell, FACHE  
Medicaid Director

Approved by:

  
John A. Stephen  
Commissioner

